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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,717	11/26/2003	John D. Colleran	4060	7338

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EXAMINER
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AHLUWALIA, NAVNEET K

ART UNIT	PAPER NUMBER
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2166

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/722,717	Applicant(s) COLLERAN ET AL.	
	Examiner Navneet K. Ahluwalia	Art Unit 2166	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This communication is in response to the Amendment filed September 12, 2006.

#### ***Response to Arguments***

2. Claims 1 – 21 are pending in this Office Action. After a further search and a thorough examination of the present application, claims 1 – 21 remain rejected. The rejection under 35 U.S.C. §101 to claim 10 is withdrawn in view of the amendment. The objection to claim 10 in view of the amendment is withdrawn.
3. Applicant's arguments with respect to claims 1 – 21 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1 – 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parthesarathy et al. ('Parthesarathy' herein after) (US 6,353,926 B1) further in view of Eric Ustaris ('Ustaris' herein after) (US 2004/0060035 A1).

With respect to claim 1,

Parthesarathy discloses in a computing environment, a method comprising: providing a selected manifest chosen from among a plurality of manifests based upon a detected type of computer-related problem, the selected manifest identifying a set of at least one tool that when executed collects data for analysis with respect to diagnosing the computer-related problem (column 6 lines 32 – 42, Parthesarathy); providing a control mechanism to interpret the selected manifest, the control mechanism automatically executing each tool identified in the set to collect the data from a machine (column 5 lines 61 – 67, Parthesarathy); and receiving the data collected from the machine (column 6 lines 48 – 58, Parthesarathy).

Parthesarathy however does not explicitly disclose the plurality of manifests out of which one is selected.

Ustaris teaches the plurality of manifests and also teaches the selecting of a manifest based on the problem or requirement (paragraphs 0020 – 0021 and 0037 – 0038, Ustaris).

It would have been obvious to one of ordinary skill in the art of data processing at the time of the present invention to combine the teachings of cited references because Ustaris's method provides an automated building of a software application based upon the submissions from programmers and furthermore provides an automated deployment/installation method for taking an updated or revised version to their systems (paragraphs 0018 and 0020 – 0021, Ustaris). Furthermore, with the plurality of manifests being built and modified according to the requirements/problems enhances the deployment with ease (paragraphs 0037 – 0038, Ustaris)

Claims 2 – 9 are rejected under the same rationale given for claim 1. The citations of the elements claimed and taught are listed below.

With respect to claim 2,

Parthesarathy discloses the method of claim 1 wherein providing the selected manifest comprises providing a mechanism that when clicked on links to the selected manifest (column 7 lines 22 – 30, Parthesarathy).

With respect to claim 3,

Parthesarathy discloses the method of claim 2 wherein providing the mechanism comprises providing a URL that when clicked on links to the selected manifest (column 7 lines 34 – 47, Parthesarathy).

With respect to claim 4,

Parthesarathy discloses the method of claim 1 wherein providing the selected manifest comprises sending information about the selected manifest in an email message (column 10 lines 1 – 3, Parthesarathy).

With respect to claim 5,

Parthesarathy discloses the method of claim 1 wherein providing the selected manifest comprises sending information about the selected manifest in an instant message (column 9 lines 2 – 12, Parthesarathy).

With respect to claim 6,

Parthesarathy discloses the method of claim 1 wherein providing the selected manifest comprises providing a site that may be accessed via a browser (column 8 lines 66 – 67 and column 9 lines 1 – 5, Parthesarathy).

With respect to claim 7,

Parthesarathy discloses the method of claim 1 wherein for each tool, the control mechanism determines whether that tool needs to be downloaded and installed to the machine, and if so, the control mechanism further downloading and installing that tool (column 6 lines 48 – 58, Parthesarathy).

With respect to claim 8,

Parthesarathy discloses the method of claim 1, further comprising, running a reporting program to collect the data and package the data for transmission (column 6 lines 13 – 26, Parthesarathy).

With respect to claim 9,

Parthesarathy discloses the method of claim 1 wherein providing the control mechanism comprises transmitting the control mechanism to the machine (column 9 lines 25 – 33, Parthesarathy).

With respect to claim 10,

Parthesarathy discloses a tangible computer-readable storage medium having computer-executable instructions which when executed performs steps, comprising: providing a selected manifest chosen from among a plurality of manifests based upon a detected type of computer-related problem (column 6 lines 32 – 42, Parthesarathy), the selected manifest identifying a set of at least one tool that when executed collects data for analysis with respect to diagnosing the computer-related problem providing a control mechanism to interpret the selected manifest, the control mechanism automatically executing each tool identified in the set to collect the data from a machine (column 5 lines 61 – 67, Parthesarathy); and receiving the data collected from the machine. (column 6 lines 48 – 58, Parthesarathy).

Parthesarathy however does not explicitly disclose the plurality of manifests out of which one is selected.

Ustaris teaches the plurality of manifests and also teaches the selecting of a manifest based on the problem or requirement (paragraphs 0020 – 0021 and 0037 – 0038, Ustaris).

It would have been obvious to one of ordinary skill in the art of data processing at the time of the present invention to combine the teachings of cited references because Ustaris's method provides an automated building of a software application based upon the submissions from programmers and furthermore provides an automated deployment/installation method for taking an updated or revised version to their systems (paragraphs 0018 and 0020 – 0021, Ustaris). Furthermore, with the plurality of manifests being built and modified according to the requirements/problems enhances the deployment with ease (paragraphs 0037 – 0038, Ustaris)

With respect to claim 11,

Parthesarathy discloses in a computing environment, a system comprising: a set of available tools, the tools configured to collect data from a machine with respect to diagnosing computer-related problems; (column 6 lines 32 – 42, Parthesarathy); a reporting mechanism that provides access to data collected from the machine (column 6 lines 48 – 58, Parthesarathy); and a control mechanism that is communicated to or is otherwise operable on the machine, the control mechanism configured to execute a subset of the tools to collect data, in which the subset of tools was selected based on a

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particular type of detected computer-related problem and the control mechanism further configured to operate the reporting mechanism to allow analysis of the collected data (column 5 lines 61 – 67, Parthesarathy).

Parthesarathy however does not explicitly disclose the plurality of manifests out of which one is selected.

Ustaris teaches the plurality of manifests and also teaches the selecting of a manifest based on the problem or requirement (paragraphs 0020 – 0021 and 0037 – 0038, Ustaris).

It would have been obvious to one of ordinary skill in the art of data processing at the time of the present invention to combine the teachings of cited references because Ustaris's method provides an automated building of a software application based upon the submissions from programmers and furthermore provides an automated deployment/installation method for taking an updated or revised version to their systems (paragraphs 0018 and 0020 – 0021, Ustaris). Furthermore, with the plurality of manifests being built and modified according to the requirements/problems enhances the deployment with ease (paragraphs 0037 – 0038, Ustaris)

Claims 12 – 21 are rejected under the same rationale given for claim 11. The citations of the elements claimed and taught are listed below.

With respect to claim 12,

Parthesarathy discloses the system of claim 11 wherein the set of available tools is maintained in a program store associated with a software support entity (column 6 lines 32 – 37, Parthesarathy).

With respect to claim 13,

Parthesarathy discloses the system of claim 11 wherein the control mechanism executes the subset of tools by interpreting a manifest that identifies the subset of tools and was selected based upon the particular type of computer-related problem (column 6 lines 48 – 59, Parthesarathy).

With respect to claim 14,

Parthesarathy discloses the system of claim 13 wherein the manifest comprises a data file accessed via a URL (column 7 lines 22 – 30, Parthesarathy).

With respect to claim 15,

Parthesarathy discloses the system of claim 13 further comprising a mechanism that selects the manifest from among a set of manifests, the selection based on received user data.

With respect to claim 16,

Parthesarathy discloses the system of claim 14 wherein the control mechanism is communicated to the machine in response to accessing the URL (column 7 lines 34 –

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47, Parthesarathy).

With respect to claim 17,

Parthesarathy discloses the system of claim 11 wherein the control mechanism downloads to the machine at least one of the tools in the subset (column 9 lines 25 – 33, Parthesarathy).

With respect to claim 18,

Parthesarathy discloses the system of claim 11 wherein the control mechanism installs at least one of the tools in the subset on the machine (column 48 – 58, Parthesarathy).

With respect to claim 19,

Parthesarathy discloses the system of claim 11 wherein the control mechanism compares a version of an existing tool on the machine with a version of a tool in the subset (Figure 3, Parthesarathy).

With respect to claim 20,

Parthesarathy discloses the system of claim 11 wherein the control mechanism operates in response to a received user request (column 6 lines 1 – 10, Parthesarathy).

With respect to claim 21,

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Parthesarathy discloses the system of claim 20 wherein the control mechanism executes at least one of the tools in the subset that was already installed on the machine prior to receiving the user request (column 6 lines 48 – 58 and column 9 lines 25 – 33, Parthesarathy).

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Navneet K. Ahluwalia whose telephone number is 571-272-5636. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alam T. Hosain can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Navneet*

Navneet K. Ahluwalia  
Examiner  
Art Unit 2166

Dated: 11/15/2006

*M 11/16/06*

*Hosain*

**HOSAIN ALAM**  
**SUPERVISORY PATENT EXAMINER**